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11 HOLLYN D'LIL

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20 Attorneys for Defendant
21 MONTGOMERY VILLAGE LIMITED PARTNERSHIP

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA

24 HOLLYN D'LIL,

25 CASE NO. 4:08-CV-04690-SBA

26 Plaintiff,

27 **HON. SAUNDRA B. ARMSTRONG**
28 Civil Rights

29 v.
30 MONTGOMERY VILLAGE LIMITED
31 PARTNERSHIP.; AND DOES 1 through 35,
32 Inclusive,

33 Defendants.

34 **CONSENT DECREE FOR**
35 **SETTLEMENT BETWEEN**
36 **PLAINTIFF AND DEFENDANT**
37 **MONTGOMERY VILLAGE**
38 **LIMITED PARTNERSHIP FOR**
39 **PLAINTIFFS' CLAIMS FOR ALL**
40 **MONETARY CLAIMS,**
41 **ATTORNEYS' FEES, LITIGATION**
42 **EXPENSES AND COSTS.**
43 **[Concurrently filed with Proposed**
44 **Order]**

45 No trial date set: General Order 56

46 **CONSENT DECREE AND ORDER**

47 1. Plaintiff HOLLYN D'LIL ("Plaintiff") filed her Complaint in this action on

48 **CONSENT DECREE AND [PROPOSED] ORDER**
49 **CASE NO. 4:08-CV-04690-SBA**

1 October 9, 2008 to enforce provisions of the Americans with Disabilities Act of 1990 ("ADA"),
2 42 U.S.C. §§ 12101 *et seq.*, and California Civil Code §§ 51; 54; and 54.1, and California
3 Health & Safety Code §§ 19952 and 19955 *et seq.*, against Defendant MONTGOMERY
4 VILLAGE LIMITED PARTNERSHIP ("Defendant"), and DOES 1-35, Inclusive. The Parties
5 to this Action have previously reached an agreement to resolve all of Plaintiff's claims for
6 injunctive relief at the subject facilities known as MONTGOMERY VILLAGE in the City of
7 Santa Rosa, by a signed and filed Consent Decree, Confidential Settlement Agreement, and
8 Order.

9 **JURISDICTION:**

10 2. Plaintiff and Defendant hereby agree that the Court has jurisdiction over
11 Plaintiff's Complaint pursuant to 28 U.S.C. § 1331 for alleged violations of the Americans with
12 Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* and for supplemental jurisdiction for
13 California civil rights laws and regulations, and for any remedies following a settlement of
14 Plaintiff's claims.

15 3. In order to avoid the costs, expense, and uncertainty of protracted litigation, the
16 parties to this Consent Decree and Confidential Settlement Agreement agree to entry of the
17 concurrently Proposed Order to resolve all of Plaintiff's monetary claims, including statutory,
18 compensatory, and personal injury claims, as well as all claims for attorneys' fees, litigation
19 expenses and costs attributed to Plaintiff's complaint against Defendant at MONTGOMERY
20 VILLAGE and its related facilities. Accordingly, the parties agree to the entry of the
21 concurrently filed Proposed Order without trial or further adjudication of any issues of fact or
22 law concerning Plaintiff's monetary claims for statutory, compensatory, and personal injury
23 claims, as set forth in the Complaint filed by Plaintiff with this Court.

24 WHEREFORE, the Parties to this Consent Decree hereby agree and stipulate to the
25 Court's entry of this Consent Decree and concurrently filed Proposed Order, which provides as
26 follows:

27 **SETTLEMENT OF PLAINTIFFS' CLAIMS FOR MONETARY RELIEF:**

28 4. The Parties have reached an agreement regarding Plaintiff HOLLYN D'LIL's

1 claims for statutory, compensatory, or personal injury claims, as well as all claims for
2 attorneys' fees, litigation expenses and costs, as requested in her Complaint before this Court.
3 Defendant hereby agrees to pay Plaintiff the sum of **\$220,000**, in full settlement of all of
4 Plaintiff's claims for statutory, compensatory or personal injury damages, attorney fees,
5 litigation expenses and costs for resolution of her Complaint. Defendant will serve Plaintiff's
6 counsel with a check for **\$220,000**, made out to Barbosa, Metz, & Harrison in trust for
7 HolLynn D'Lil by January 15, 2011.

8 **ENTIRE CONSENT ORDER:**

9 5. This Consent Decree and Confidential Settlement Agreement and Release and
10 concurrently filed Proposed Order constitutes the entire agreement between the signing parties
11 on the matter of Plaintiff's claims for monetary relief against Defendant MONTGOMERY
12 VILLAGE, and no other statement, promise, or agreement, either written or oral, made by any
13 of the parties or agents of any of the parties, that is not contained in this written Consent Decree
14 and Confidential Settlement Agreement and Release and concurrently filed Proposed Order,
15 shall be enforceable regarding the matters described herein. This Consent Decree and
16 Confidential Settlement Agreement and Release and concurrently filed Proposed Order applies
17 to all of Plaintiff's monetary claims in the action before this Court.

18 **CONSENT ORDER BINDING ON PARTIES AND SUCCESSORS IN INTEREST:**

19 6. This Consent Decree and Order and Confidential Settlement Agreement and
20 Release shall be binding on Plaintiff HOLLYN D'LIL and Defendant MONTGOMERY
21 VILLAGE LIMITED PARTNERSHIP and any successors in interest. The Parties have a duty
22 to so notify all such successors in interest of the existence and terms of this Consent Decree and
23 Confidential Settlement Agreement and Release and concurrently filed Proposed Order during
24 the period of the Court's jurisdiction of this Consent Decree and Confidential Settlement
25 Agreement and Release and Order.

26
27 **MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542 AS TO**
28 **PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF AND MONETARY CLAIMS:**

CONSENT DECREE AND [PROPOSED] ORDER
CASE NO. 4:08-CV-04690-SBA

1 7. Each of the Parties to this Consent Decree and Confidential Settlement
2 Agreement and Release understands and agrees that there is a risk and possibility that,
3 subsequent to the execution of this Consent Decree and Confidential Settlement Agreement and
4 Release, any or all of them will incur, suffer, or experience some further loss or damage with
5 respect to Lawsuit which are unknown or unanticipated at the time this Consent Decree and
6 Confidential Settlement Agreement and Release is signed. Except for all obligations required
7 in this Consent Decree and Confidential Settlement Agreement and Release, the Parties intend
8 that this Consent Decree and Confidential Settlement Agreement and Release apply to all
9 conditions that existed at the subject facilities and all such further loss with respect to the
10 Lawsuit, except those caused by the Parties subsequent to the execution of this Consent Decree
11 and Confidential Settlement Agreement and Release. Therefore, except for all such obligations
12 required in this Consent Decree and Confidential Settlement Agreement and Release, this
13 Consent Decree and Confidential Settlement Agreement and Release shall apply to and cover
14 any and all claims, demands, actions and causes of action by the Parties to this Consent Decree
15 and Confidential Settlement Agreement and Release with respect to the Lawsuit, whether the
16 same are known, unknown or hereafter discovered or ascertained, and the provisions of Section
17 1542 of the California Civil Code are hereby expressly waived. Section 1542 provides as
18 follows:

19 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
20 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
21 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
22 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM
23 OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
24 HER SETTLEMENT WITH THE DEBTOR.

25 This waiver applies only to Plaintiff's claims for all monetary claims in the Complaint before
26 this Court.

27 8. Except for all obligations required in this Consent Decree and Confidential
28 Settlement Agreement and Release, each of the Parties to this Consent Decree and Confidential
Settlement Agreement and Release, on behalf of each, their respective agents, representatives,
predecessors, successors, heirs, partners and assigns, releases and forever discharges each other

1 Party and all officers, employees, agents, attorneys, insurance carriers, heirs, predecessors,
2 parents, and representatives of each other Party, from all claims, demands, actions, and causes
3 of action of whatever kind or nature, presently known or unknown, arising out of or in any way
4 connected with the Lawsuit.

5 **TERM OF THE CONSENT DECREE AND ORDER:**

6 9. This Consent Decree, Confidential Settlement Agreement and Release, and
7 concurrently filed Proposed Order shall be in full force and effect once approved by the Court.
8 The Court shall retain jurisdiction of this action to enforce provisions of this Order in the event
9 that Plaintiff alleges that Defendant has failed to comply with the terms of this Consent Decree
10 and Confidential Settlement Agreement and Release for payment of all of Plaintiff's monetary
11 claims for statutory, compensatory and personal injury damages for the agreed-upon date of
12 payment.

13 ///

14 **SIGNATORIES BIND PARTIES:**

15 12. Signatories on the behalf of the parties represent that they are authorized to bind
16 the parties to this Consent Decree, Confidential Settlement Agreement and Release, and the
17 concurrently filed Proposed Order. This Consent Decree, Confidential Settlement Agreement
18 and Release, and concurrently filed Proposed Order may be signed in counterparts and a
19 facsimile signature shall have the same force and effect as an original signature.

20

21 APPROVED AS TO FORM:

22 Dated: November 22, 2010

PATRICIA BARBOSA
JORDON METZ
BARBOSA, METZ, & HARISSON

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25 Attorneys for Plaintiff
26 HOLLYN D'LIL

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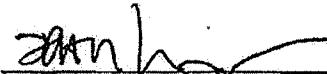
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2 Dated: November 22, 2010

DENNIS STRAZULO
SARA WILSON
STRAZULO FITZGERALD, LLP

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5 Attorneys for Defendant
6 MONTGOMERY VILLAGE LIMITED
7 PARTNERSHIP

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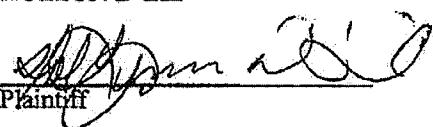
PARTIES' APPROVAL:

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10 Dated: November 22, 2010

HOLLYN D'LIL

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12 Plaintiff

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Dated: November 22, 2010

MONTGOMERY VILLAGE LIMITED
14 PARTNERSHIP

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16


17 Melissa D. Williams

Defendant

Name: Melissa D. Williams

Title: Vice President

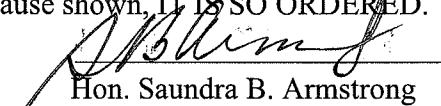
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Pursuant to Stipulation, and for good cause shown, IT IS SO ORDERED.

21 Dated: 3/16, 2011


22 Hon. Saundra B. Armstrong
23 United States District Judge Presiding

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CONSENT DECREE AND [PROPOSED] ORDER
CASE NO. 4:08-CV-04690-SBA